unless you recoup his expenses, which I estimate at $200."

The real question in the case is whether such recoupment amounts, in the words of the statute, to "A reward in consideration of the adoption." In one sense the money was certainly paid in consideration of the adoption; without the payment the natural parents would not have agreed to transfer their child. But that is not to say that the adoption was for reward in the sense which the Ordinance seeks to make unlawful. A middle view is possible.

The case could be compared with one where the custody of a child is transferred temporarily, as for instance where he is sent to another country for education. The parents might put him in the care of a relative who would maintain him gratuitously. They might send him to a relative, less fortunately circumstanced, who accepted money representing the bare cost of maintenance. They might send him to a some kind of a boarding establishment avowedly on a commercial basis; this would obviously involve reward, though the amount would be only a proportion of the money paid. In the second example the host might fairly say that mere reimbursement did not mean that he was accepting money for his services and that he was in truth taking care of the child without reward. The present case appears to be similar in principle.

Every such case requires strict scrutiny because the sum of money could so easily be inflated to mask an unlawful reward, but in view of the further evidence I saw no reason to suppose that has occurred in this instance so the petition was granted.

Petition granted.

Solicitor for the petitioners: *K. K. Bezboruah.*

LIAN TECK CHEW v. REGINA

[C.C.A. (Murray-Aynsley C.J., Mathew C.J. (F.M.) and Brown J.) January 13, 1955]

[Singapore—Criminal Appeal No. 24 of 1954]

Prevention of Corruption Ordinance, 1937, s. 3(b) — Police conniving in commission of offences in order to detect other offences — Whether Police Officer becomes an accomplice — Investigation carried on by Corrupt Practices Investigation Bureau — Criminal Procedure Code (Cap. 21), s. 125 — Dangerous Drugs Ordinance, 1951, s. 48.

This was an appeal against the conviction of the appellant on a charge under s. 3 (b) of the Prevention of Corruption Ordinance, 1937. There was evidence to show that at the suggestion of the appellant Mr. Waters, an Acting Deputy Superintendent of the Harbour Board Police, on three occasions carried chandu from the Harbour Board area and on each occasion was subsequently given a sum of money. One of the grounds of appeal was that Mr. Waters was an accomplice, as apart from the protection afforded by s. 48 of the Dangerous Drugs Ordinance an offence would have been committed by him.

Held: Mr. Waters was not an accomplice and since the first suggestion came from the appellant he was not an agent provocateur.

CRIMINAL APPEAL.

N. L. Macassey for the appellant.

T. A. Mahoney (Crown Counsel) for the respondent.

Murray-Aynsley C.J. (delivering the judgment of the Court): — In this case there was abundant evidence that at the suggestion of the appellant Mr. Waters, Acting Deputy Superintendent of the Harbour Board Police, on three occasions carried chandu from the Harbour Board area and on each occasion was subsequently given a sum of money. The appellant was charged under the Prevention of Corruption Ordinance though he might have been charged under the Penal Code. The charge was as follows: —

"That you, Lian Teck Chew, on or about the 17th day of August, 1953, at or about 3.30 p.m. at No. 27 Eng Hoon Street, Singapore, did corruptly give the sum of cash $900 to an agent, namely Ray William Waters, Acting Deputy Superintendent, Harbour Board Police, as a reward to the said Ray William Waters for forbearing to do an act in relation to his principal's affairs, viz. for forbearing to take action against yourself and Yong Weng and Tan Yee Leong in the matter of jointly with the said Yong Weng and Tan Yee Leong, importing into the Colony of Singapore 32 lbs. of opium contrary to the Dangerous Drugs Ordinance and thereby committed an offence punishable under section 3 (b) of the Prevention of Corruption Ordinance, 1937 (No. 41 of 1937)."

in the first case and in the same form for the other two.

Giving money to carry the chandu would not have been an offence against the Ordinance although what the appellant sought was to get the chandu conveyed, the carriage of the chandu by Mr. Waters and its delivery to the associates of the appellant involved — besides the positive act in question, various negative acts, refraining from taking measures against persons in possession of chandu. We think that the charge is good.

A great stress was laid on behalf of the appellant on the fact that apart from the protection afforded by section 48 of the Dangerous Drugs Ordinance (No. 7 of 1951) an offence would have been committed by Mr. Waters. Certainly a considerable amount of chandu found its way to the market as the result of his action. Mr. Waters was not an accomplice and, since the first suggestion came from the appellant, he was not what is called as "agent provocateur". It is unfortunately true that certain offences can only be detected by action of this kind by the police and their agents, extending in some cases so far as the commission

of actual offences. The propriety of this is a matter for the authorities concerned. Convictions so obtained are good.

Considerable difficulty was caused in presenting the case in the Court below by section 125 of the Criminal Procedure Code. The investigation was carried on under the auspices of a non-statutory body known as the Corrupt Practices Investigation Bureau. It was, however, treated, rightly or wrongly, as a police investigation for the purpose of that section, with the result that statements made by the appellant were excluded. It was, however, necessary to show that Mr. Waters was not an accomplice, both for avoiding the necessity for corroboration and for safeguarding the reputation of Mr. Waters. To this end a great deal of evidence was given by Mr. Lyle and Mr. Corridon who were his superiors at the material time. In so far as this evidence showed that Mr. Waters acted at all stages under their direction this evidence is in order. At certain times the prosecution did not manage to keep to this difficult and narrow path, and the evidence tended to reveal indirectly what the prosecution had refrained from revealing directly.

As the principal question for the jury was whether Mr. Waters was to be believed or not — if he was believed the case for the prosecution was overwhelming — it did not appear that these defects resulted in any miscarriage of justice. Therefore we dismissed the appeal.

Appeal dismissed.

Solicitors for the appellant: *Battenberg & Talma.*

SIN HWA CHINESE GOODS CO. v. WADHUMAL DALAMAL (trading as DALAMAL & SONS)

[C. A. (Murray-Aynsley C.J. Mathew C.J. (F.M.) and Brown J.) January 20, 1955]

[Singapore—Civil Appeal No. 24 of 1954]

Contract — Sale of goods — Illegality of contract — Whether it vitiates a subsequent contract between the parties.

The parties to the action had entered into a contract for the sale of articles described as "Platinum Fountain Pens." This contract could have been avoided for illegality for the reason that it contravened the Merchandise Marks Ordinance. The defendants (appellants in the appeal) were in default on this contract and the plaintiff issued a writ against the defendants. Subsequently the plaintiff agreed not to proceed with the suit on the understanding that the defendants entered into and complied with the terms of a contract for the purchase of "Lamalad" pens. Subsequently the defendants repudiated this contract and the plaintiff took action against them. At the trial the learned Judge held that the illegality of the first contract attached itself to and vitiated the second contract. He therefore dismissed the claim for damages and also a counterclaim for return of the deposit. The defendants appealed in respect of their counterclaim and the plaintiff gave notice of a cross appeal.

Held: the second contract was a perfectly lawful one and in no sense furthered the unlawful purpose of the first one and therefore the appellants-defendants were liable for breach of contract.

CIVIL APPEAL.

N. A. Christopher for the appellants-defendants.

J. L. P. Harris for the respondent-plaintiff.

Murray-Aynsley C.J. (with whom **Mathew C.J. (F.M.)** agreed) : — This was a claim for damages occasioned by the repudiation of a contract for the sale of goods. There was a counterclaim for the return of a deposit. In the Court below the learned Judge found for the defendants on the claim and for the plaintiff on the counterclaim. The defendants appealed in respect of their counterclaim, and the plaintiff gave notice of a cross-appeal.

The matter begins with a contract for the sale of articles described as "Platinum Fountain Pens" dated March 6th, 1950. The defendants were in default on this contract and the plaintiff issued a writ on June 25th, 1953. On July 8th a second contract was entered into between the parties for the sale of "Lamalad" pens. It was in the following terms :—

" Singapore, 8th July, 1953.

To Messrs. Dalamal & Sons,
106 High Street,
Singapore.

Dear Sirs,

Suit No. 980 of 1953.

"I confirm our agreement to settle the above Suit upon the following terms:—

(1) I agree to take delivery of 560 dozen Lamalad Fountain Pens at the price of $18 per dozen.

(2) Delivery shall be made at my premises at the rate of 100 dozen every ten days (as to which time is to be of the essence of this agreement). The first delivery to be taken by me on the 18th July. 1953. I will pay the price of each consignment on delivery.

(3) So long as I carry out the above terms you will agree to take no further proceedings in Suit No. 980 of 1953.

(4) The deposit of $1,000 paid to you on the 26th June, 1950 will be deducted from the price of the last 60 dozen pens.

(5) In the event of my failing to comply with any of the above terms you are entitled to continue with the said Suit without further notice.

(6) If I comply with all the above terms you will accept the above arrangement in full settlement of your claim against me in the above Suit which you will discontinue, in which event each side will bear its own costs.

I confirm that I am the sole proprietor of Sin Hwa Chinese Goods Co.

Yours faithfully,
sgd. Lam Ting Ying
LAM TING YING."